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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,726	12/05/2003		Sung-Mo Kang	416272004201	1316
20872 75	590 05/13/2004			EXAM	INER
MORRISON & FOERSTER LLP 425 MARKET STREET			*	ZWEIZIG, JEFFERY SHAWN	
	SCO, CA 94105-2482			ART UNIT	PAPER NUMBER
			Y.	2816	

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Definition Defin		·	Application No.	Applicant(s)
Justice Just	Office	Action Summan	10/729,726	KANG ET AL.
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Application/Control Number: 10/729,726

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Claim Objections

1. In claims 13-15, delete "(IS THIS CLAIM OK?)". Correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1, 8-12 and 21-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Son et al. (USPN 6,049,245).

Son et al. Fig. 3 shows a circuit comprising a first PMOS Q12, a first NMOS Q3, a second NMOS Q15 and a second PMOS Q16 as recited in claim 1.

The transistors have gates as recited in claims 8-11.

Further shown is a sustaining NMOS Q14 and a sustaining PMOS Q11 as recited in claim 12.

Claims 21-34 are anticipated for the reasons above.

Double Patenting

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re*

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Ockert, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 17-20 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 17-20 of copending Application No. 10/155,490. This is a <u>provisional</u> double patenting rejection since the conflicting claims have not in fact been patented.

Conclusion

- 6. Claims 2-7 and 13-16 are objected to as being dependent upon a rejected base claim, but may be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey S. Zweizig whose telephone number is (571) 272-1758. The examiner can normally be reached on Monday thru Thursday 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy P. Callahan can be reached on (571) 272-1740. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aeffrey S. Zweizig Primary Examiner Art Unit 2816